IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 731 of 2006

In

Special Civil Suit No.149 of 2006

Shankar Valiram Hinduja .. Appellant

V/s

Dilip R. Ghorpade and Anr. ..Respondents

Shri Sameer M. Tendulkar for the Appel;lants

Shri A.B.Borkar for Respondent no.1.

CORAM:S.R.SATHE,J.

DATED:22nd Aug. 2007

P.C.:-

1. By consent heard finally at the admission stage.

2. Heard both the learned advocates.

3. Perused the order passed by the trial Court.

4. Plaintiff had filed the suit for specific performance of the agreement to sell it was alleged that the defendant had agreed to sell the property for

Rs.32 lacs and earnest money of Rs.51,000/- was paid. The plaintiff moved an application for temporary injunction restraining defendants from creating third party right in respect of the suit property till the disposal of the suit. After hearing both the parties the learned trial Court came to the conclusion that there are material discrepancies in the suit agreement and as a result it creates doubt about genuineness of the agreement itself. The learned trial Judge therefore held that the plaintiff has failed to make out any prima facie case and rejected the application.

5. Being aggrieved by the said order the plaintiff has filed the present A.O. It is an admitted fact that at the time of admission of A.O. when interim relief was sought the Appellant plaintiff was directed to deposit certain amount in Court within the stipulated time. Admittedly, he has not done so and in a way he has failed to comply the order of this Court and it also shows that he was not ready and willing to perform his part of the agreement throughout. This corroborates the allegations made by the defendant.

6. Under the circumstances there is no necessity to interfere with the order passed by the learned trial Court.

7. Hence the appeal is dismissed in limine.

(S.R.SATHE,J.)